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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,933	01/16/2004	Johann Heinrich Cuhls	AUS920030598US1	8215

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08/21/2007

EXAMINER
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JOSEPH, TONYA S

ART UNIT	PAPER NUMBER
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3628

MAIL DATE	DELIVERY MODE
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08/21/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/759,933	<b>Applicant(s)</b> CUHLS ET AL.	
	<b>Examiner</b> Tonya Joseph	<b>Art Unit</b> 3628	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>01/16/2004</u> . | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 1-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claims 1, 4, 8, 9, 12, 16, 17, 22 and 24, recite limitations containing optional language. i.e. Claim 1 recites the limitation, "if the pre-selected communication channel is a duplex channel, the queue order information comprises a patron-selectable set of queue order information, the patron-selectable set including the estimated time remaining and the current position of the patron in the queue". It is unclear whether the communication channel being a duplex channel is an actual requirement of the claim. The use of conditional language not only promotes doubt as to whether the limitation following the ***IF*** modifier is optional claim language, it also makes it unclear what would occur if the pre-selected communications channel is not a duplex channel. For Examination purposes, Examiner is interpreting the limitations following the ***IF*** modifier in the aforementioned claims to be optional claim language and therefore not a requirement of the respective claim.

4. All dependent claims inherit the deficiencies through dependency, and as such are rejected for the same reasons.

### ***Claim Rejections - 35 USC § 102***

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 4-9, 12-17 and 20-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Paxton et al. U.S. Pre-Grant Publication No. 2002/0007292 A1.

6. As per Claims 1, 9 and 17, Paxton teaches, (a) determining a current position of a patron in a queue (see para. 54 lines 1-7); (b) determining a current estimated time remaining for said patron using the current position of the patron (see para. 54 lines 1-7) and a selected set of historical data (see para. 24 lines 10-13); and (c) transmitting queue order information to the patron using a pre-selected communication channel (see para. 10 lines 3-11 and para. 24 lines 4-6); Although the limitation, "if the pre-selected communication channel is a duplex channel, the queue order information comprises a patron-selectable set of queue order information, the patron-selectable set including the estimated time remaining and the current position of the patron in the queue" is considered optional language not required by the claim, Paxton teaches this limitation in para. 59 lines 1-3; para. 54 lines 2-5; para. 56 lines 9-15 and para. 73 lines 1-5.

7. As per Claims 4, 12 and 20, Paxton teaches the method of claim 1 as described above. Paxton further teaches wherein the steps (a), (b) and (c) are repeated at a pre-selected notification criterion (see para. 56 lines 9-24), the limitation, "if the communication channel is a duplex channel, the pre-selected notification interval comprises a patron-selected notification criterion." purports to further limit the recited optional language as identified in claim 1. As above in claim 1 this limitation is only afforded patentable weight to the extent that it imparts a manipulative difference of the

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claimed invention, which are met by the teachings of Paxton para. 59 lines 1-5 and para. 56 lines 9-19.

8. As per Claims 5, 13 and 21, Paxton teaches the method of claim 1 as described above. The limitation "wherein the patron-selected notification criterion comprises one of a set including a pre-selected notification time interval and a pre-selected queue position" purports to further limit the recited optional language as identified in claim 1. As above in claim 1 this limitation is only afforded patentable weight to the extent that it imparts a manipulative difference of the claimed invention, which are met by the teachings of Paxton para. 56 lines 19-24.

9. As per Claims 6, 14 and 22 Paxton teaches the method of claim 1 as described above. Paxton further teaches (d) notifying the patron upon reaching a head of the queue using the communication channel (see para. 67 lines 6-10, Examiner is interpreting the display on the device id, used to notify the patron of the ride gate entrance as notifying the patron upon reaching a head of the queue using the communication channel); Although the limitation, "(e) if the patron fails to respond after an expiry of a predetermined time interval after step (d), moving the patron to another position within the queue" ; is considered optional language not required by the claim, Paxton teaches this limitation in para. 31, Examiner is interpreting a patron failing to respond in the affirmative that they will make it back to a ride on time as, the patron fails to respond after an expiry of a predetermined time interval after step).

10. As per Claims 7, 15 and 23 Paxton teaches the method of claim 6 as described above. The limitation "wherein the another position within the queue is an end of the

queue” purports to further limit the recited optional language as identified in claim 1. As above in claim 1 this limitation is only afforded patentable weight to the extent that it imparts a manipulative difference of the claimed invention, which are met by the teachings of Paxton para. 31.

11. As per Claims 8, 16 and 24, Paxton teaches the method of claim 1 as described above. Although the limitation, “(d) if the patron is at the head of the queue, determining if the patron can be accommodated; and (e) if the patron cannot be accommodated, interchanging the current position of the patron and position of a next patron in the queue” is considered optional language not required by the claim, Paxton teaches this limitation in para. 67 lines 16-25 and para. 73 lines 6-10.

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 2, 10 and 18 rejected under 35 U.S.C. 103(a) as being unpatentable over Paxton et al. U.S. Pre-Grant Publication No. 2002/0007292 A1 in view of Thangavelu U.S. Patent No. 4,838,384.

14. As per Claims 2, 10 and 18, Paxton teaches the method of claim 1 as described above. Paxton further teaches the method of claim 1 as described above. Paxton further

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teaches wherein the set of historical data comprises a queue servicing rate for a preceding time interval (see para. 24 lines 10-13), Paxton does not explicitly teach the estimated time remaining determined using a linear extrapolation with said queue servicing rate. Thangavelu teaches estimated time remaining determined using a linear extrapolation with said queue servicing rate (see Col. 13 lines 25-29. It would have been prima facie obvious to one of ordinary skill in the art at the time of invention to modify the method of Paxton to include the teachings of Thangavelu to estimate the average arrival passenger rate, as taught in Thangavelu Col. 13 lines 25-29.

15. Claims 3, 11 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Paxton et al. U.S. Pre-Grant Publication No. 2002/0007292 A1 in view of Thangavelu U.S. Patent No. 4,838,384 in further view of Holland et al. U.S. Pre-Grant Publication No. 20020143605.

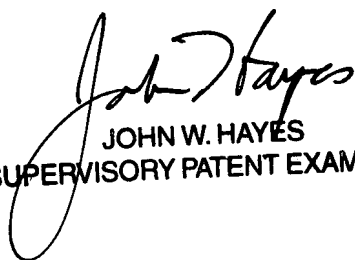
16. As per Claims 3, 11 and 19, Paxton in view of Thangavelu teaches the method of claim 2 as described above, Paxton further teaches wherein the queue servicing rate comprises a rate at which patrons have been served between a current time and a preceding notification time (see para. 24 lines 16-20) and Paxton does not explicitly teach wherein the set of historical data further comprises seasonal average patron service rates. Holland teaches the set of historical data further comprises seasonal average patron service rates (see para. 7). It would have been prima facie obvious to one of ordinary skill in the art at the time of invention to modify the method of Paxton and Thangavelu to include the teachings of Holland to track service demand on a seasonal basis, as taught by Holland para. 7.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tonya Joseph whose telephone number is 571-270-1361. The examiner can normally be reached on Mon-Fri 7:30am-5:00pm First Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Hayes can be reached on 571 272 0847. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
JOHN W. HAYES  
SUPERVISORY PATENT EXAMINER

Tonya Joseph  
Examiner  
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